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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the Association for Progressive Communications (APC), a non-governmental organization in general consultative status, the American Civil Liberties Union, Amnesty International, Asian Forum for Human Rights and Development, Human Rights Watch, International Commission of Jurists, International Federation for Human Rights Leagues, International Humanist and Ethical Union, International PEN, International Press Institute, International Service for Human Rights, Privacy International, non-governmental organizations in special consultative status, Article 19 - International Centre Against Censorship, the World Association of Newspapers, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[04 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Initiatives to "counter and prevent violent extremism" raise serious human rights concerns

This joint written submission raises serious concerns regarding the potential impact of initiatives to counter and prevent "violent extremism" (PVE) on the enjoyment of human rights and fundamental freedoms. This relates specifically to the planned Panel Discussion on "human rights and preventing and countering violent extremism" at the 31st Session of the UN Human Rights Council (HRC).

At the outset, we recognise that PVE initiatives that are based on a clear definition of the phenomenon being addressed, have a proper evidential basis for harm reduction, and that respect human rights and civil society space, can play a potentially positive role.

We welcome that the Secretary General's recently launched "Plan of Action to Prevent Violent Extremism" acknowledges the negative impact of violence on the enjoyment of human rights and the rule of law.[1] We note that the Plan of Action recognises that the absence of an agreed definition of what constitutes "violent extremism" poses a danger of its conflation with "terrorism." As the Secretary General further notes, this conflation of "violent extremism" with "terrorism" may "lead to the justification of an overly broad application of counter-terrorism measures, including against forms of conduct that should not qualify as terrorist acts".[2] As we have seen in the last decade and a half, the overly broad application of counter-terrorism measures has had a profoundly detrimental impact on the enjoyment of human rights. As discussed below, these concerns are heightened when, as the Plan of Action indicates, states individually define and apply the terms "violent extremism" and "terrorism."[3] Moreover, criminalising or otherwise prohibiting or sanctioning conduct without a clear definition is incompatible with the principle of legality, a basic rule of law precept.

We are concerned that HRC resolution 30/15 on "Human Rights and Preventing and Countering Violent Extremism",[4] as adopted by vote after substantial oral revisions, fails to properly capture the danger for abuse of PVE initiatives, and that it provides inadequate language aimed to protect human rights. We encourage all delegations to the Human Rights Council to ensure these deficiencies are addressed through contributions to the upcoming panel discussion and through future initiatives on this topic.

While framed in the language of promoting human rights, the push to encourage PVE initiatives as a response to terrorism ignores the risk of serious adverse human rights consequences of some of these programmes. "Violent extremism" and related terminology such as "radicalisation" are poorly defined concepts, which open the door to human rights and other abuses.[5] Several governments already routinely label political opponents, journalists, and human rights defenders as "extremists" or "terrorists". Identifying "violent extremism" as the problem only provides these governments more grounds to stifle freedom of expression and crush dissent. Moreover, some states are now promoting another category, that of "non-violent extremism," adding to the definitional confusion – and potentially resulting in the criminalisation of conduct that is not linked in any way with acts of violence.

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[1] Report of the Secretary General, "Plan of Action to Prevent Violent Extremism", 24 December 2015, U.N. GA, 70th Sess., A/70/674

[2] Ibid., para. 4, p. 2.

[3] Ibid., para. 5, p. 2.

[4] Human Rights Council Res. 30/15, Human Rights and Preventing and Countering Violent Extremism, 30th Sess., Sept. 14- Oct. 2, 2015, U.N. GAOR, 70th Sess., A/30/15 (Oct. 12, 2015).

[5] The absence of a definition for the term "violent extremism" is acknowledged by the Secretary General. He notes, however, that "Violent extremism encompasses a wider category of manifestations [than terrorism] and there is a risk that a conflation of the two terms may lead to the justification of an overly broad application of counter-terrorism measures, including against forms of conduct that should not qualify as terrorist acts." (*Ibid.*). It is difficult to foresee how, for example, PVE measures that limit freedom of expression will be "clearly and narrowly defined and meet the three-part test of legality, proportionality and necessity" when "violent extremism" and analogous concepts are not defined (*Ibid.* At para. 50(k)).

In many parts of the world, PVE initiatives may compromise the human rights and fundamental freedoms of the communities they target, undermine the work of human rights defenders| as well as the independence of civil society. While packaged as positive measures, many PVE initiatives have a significant potential to threaten the human rights to equality and freedom from discrimination, the right to privacy, and the freedoms of expression, association, and religion or belief.

Moreover, the evidential basis for PVE initiatives achieving their intended effect is often questionable, as they may alienate the very people they are meant to help. Such initiatives are often perceived as stigmatising, discriminatory and as a form of "soft surveillance" by members of the communities they target.[6] Indeed, many of them have voiced concern that the security and intelligence services, in league with law enforcement agencies, may use PVE programmes to attempt to recruit informers, creating fear and distrust. Moreover, while PVE initiatives are often framed as not addressing a particular ideology or religion, the communities and individuals currently targeted are overwhelmingly Muslim, with some programmes specifically targeting and stigmatising Muslim women.[7]

Some PVE initiatives may be welcomed on the basis of their bringing much-needed resources to communities to address economic and social issues assumed to be connected to the causes of violent extremism. However, where situated in the framework of safeguarding national security, these initiatives can prove divisive and counterproductive, as they are often perceived as being premised on and reinforcing of negative and false stereotypes of a unique association among Muslims, terrorism and violence.

Other PVE initiatives promote particular forms of intervention to divert or disrupt individuals from an alleged pathway to "violent extremism". These often target individuals, again overwhelmingly Muslims, on the basis of misconceived assumptions about the ease with which individuals susceptible to acts of violence can be profiled and with little or no evidence for the efficacy of interventions. They often require the active collaboration of public service providers (such as in social services, health or education) and security or law enforcement agencies, with interventions often triggered by lawful behaviour.[8] In the context of education, for example, we have observed such mechanisms being mobilised in response to protected forms of expression or religious practice, including by young children, infringing on the rights to education and expression, and further exacerbating distrust and marginalisation.

We are also concerned by PVE proposals that prohibit targeted individuals' access to the Internet or specific online platforms, measures for the blocking of lawful online content, and blanket restrictions on access to specific platforms or encryption services. We increasingly see governments seeking to enlist private companies to "voluntarily" monitor or remove lawful content on the basis of its alleged connections to "violent extremism", where governments themselves lack these powers. These measures often lack proper procedural safeguards and pose a serious danger to the rights to freedom of expression and privacy online. Governments and inter-governmental bodies too often overlook the enormous potential of a free and open Internet to enable robust debate and make a positive contribution to PVE.[9]

We call on all delegations to carefully consider these concerns in their contributions to the panel discussion of PVE at the 31st Session of the Human Rights Council, and in relation to any follow-up initiatives.

Access Now; ActiveWatch Romania; Afghanistan Journalists Center; Australian Privacy Foundation; Bahrain Centre for Human Rights; Brazilian Association of Investigative Journalism – ABRAJI; Cambodia Center for Independent

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[6] See Dilly Hussain, "The Serious Way Forward to 'Prevent' Terror in Britain," Middle East Eye, 27 January 2016; available at http://www.middleeasteye.net/columns/beginning-end-prevent-716599408

[7] See, for example, "David Cameron Stigmatising Muslim Women With Learn English Language Policy", The Guardian, January 18 2016; available at: http://www.theguardian.com/politics/2016/jan/18/david-cameron-stigmatising-muslim-women-learn-english-language-policy

[8] See, for example, Michelle Boorstein, *Muslim Activists Alarmed by the FBI's New Game-Like Counterterrorism Program for Kids*, Washington Post 2 November 2015; Diane Taylor, *Schools Monitoring Pupils' Web Use With 'Anti-Radicalisation' Software*, Guardian, 10 June 2015.

[9] We appreciate that the Secretary General notes in his Plan of Action that "thousands of young activists and artists are fighting back against violent extremism online through music, art, film, comics and humour", *op. cit.*, at para. 55.

Media – CCIM; Canadian Journalists for Free Expression; Cartoonist Rights Network; International Center for Media Freedom and Responsibility – CMFR; Charity & Security Network; Committee to Protect Journalists – CPJ; Council on American-Islamic Relations – CAIR; English PEN; European Digital Rights – EDRi; Federation of Nepali Journalists – FNJ; Free Media Movement (Sri Lanka); Freedom Forum Fundamendios; Globe International Center (Mongolia); Gulf Centre for Human Rights; Human Rights Network for Journalists (Uganda); Independent Journalism Center -IJC (Moldova); Index on Censorship; International Federation of Journalists - IFJ (Asia-Pacific); La Quadrature du Net; March Lebanon; Media Foundation for West Africa; Media Institute of Southern Africa; Media Rights Agenda ; Media Watch; Media Entertainment & Arts Alliance (Australia); Mizzima News; Muslims for Progressive Values; National Union of Somali Journalism – NUSOJ; Palestinian Center for Development and Media Freedoms- MADA; PEN America; PEN Canada; Social Media Exchange - SMEX (Beirut); South East European Network for Professionalization of Media Southeast Asian Press Alliance – SEAPA; Vigilance for Democracy and the Civic State; West African Human Rights Defenders' Network – WAHRDN; World Association of Community Radio Broadcasters- AMARC; NGO(s) without consultative status, also share the views expressed in this statement.